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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/409,457	09/30/1999	MARTIN C. FLAUTT	24649A	5361

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EXAMINER

EGWIM, KELECHI CHIDI

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 10/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/409,457

Applicant(s)

FLAUTT ET AL.

Examiner

Dr. Kelechi C. Egwim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114 was filed in this application after appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 9/11/03 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 19-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. The recitation in claim 19, from which claims 20-43 depend, is indefinite. For instances, on the one hand, the claim recite "an article having at least one surface covered by a *superabsorbent polymer coating*" then on the other hand, the claim recites that the article comprised "an (water-soluble superabsorbent polymer precursor

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containing) *aqueous coating composition* the covers at least one surface of said article".

What covers which claimed article, the *superabsorbent polymer coating* or *aqueous coating composition* containing the polymer precursor? Is the article intended to contain itself or are there two different articles. If there are two different articles, then which article is "said article" in lines 4, 8 and 9 of the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 19-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Kono et al. or Shiono et al.

In the abstract, Kono et al. or Shiono et al. teach articles comprising coating layers on at least one surface, said coatings comprising a water-absorbent polymer and a binder.

Thus, the requirements for rejection under 35 U.S.C. 102(b) are met.

7. Claims 19-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Kroesbergen or Manning et al.

Each of Kroesbergen (page 1, lines 1-17, page 2, lines 16-37, page 3, lines 14-22, page 4, lines 12-29 and the Example on page 9) and Manning et al. (col. 1, lines 6-

28 and col. 2, lines 5-61) teach fibrous polymeric articles comprising, on at least one surface, a coating prepared from a water-soluble superabsorbent polymer and a binder.

Thus, the requirements for rejection under 35 U.S.C. 102(b) are met.

8. Claims 19-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Arroyo et al. or Geursen et al.

Each of Arroyo et al. (col. 3, line 1-15 and col. 4, lines 11-20) and Geursen et al. (col. 1, lines 7-10 and col. 3, lines 31-41) teach superabsorbent-coatings for fibrous substrate, such as aramids, prepared from a water-soluble polymer and other optional component such a viscosity modifying polymers.

Thus, the requirements for rejection under 35 U.S.C. 102(b) are met.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 19-46 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, 35 U.S.C. 103(a) as being unpatentable over Gaa et al. or Cossement et al.

Each of Gaa et al. (col. 4, lines 50-55, col. 6, lines 5-60, col. 8, lines 12-14, col. 10, lines 5-7, and col. 11, lines 30-53) and Cossement et al. (col. 1, lines 44-51 and col. 5, lines 20-65,) teach fibers reinforcing material coated with coating/sizing compositions,

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said compositions comprising an aqueous solution of a base neutralized polyacrylate, and polymeric/binder agents, along with any conventional compounds known to be useful in aqueous compositions for coating such fibrous substrate.

While Gaa et al. or Cossement et al. do not expressly teach the disclosed the superabsorbent properties of the claimed coating, it is reasonable that the coatings of Gaa et al. or Cossement et al. would poses the presently claimed properties since the compositions are essentially the same as the claimed composition and the USPTO does not have at its disposal the tools or facilities deemed necessary to make physical determinations of the sort. In any event, an otherwise old composition or article is not patentable regardless of any new or unexpected properties. In re Fitzgerald et al , 619 F.2d 67, 205 USPQ 594 (CCPA 1980). See MPEP § 2112 - § 2112.02.

Even if assuming that the prior art references do not meet the requirements of 35 U.S.C. 102, it would still have been obvious to one of ordinary skill in the art, at the time the invention was made, to arrive at the same inventive composition because the disclosure of the inventive subject matter appears within the generic disclosure of the prior art.

11. Claims 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arroyo et al. or Geursen et al. in combination with Barch et al.

Arroyo et al. or Geursen et al., above, differ from the claimed invention in that the coatings are not explicitly disclosed as comprising binders. However, it is well known in the art to incorporate a binder into a coating composition for fibrous substrate, for the

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purpose of facilitating the formation of a film on the substrate upon the drying of the coating composition, such as taught by Barch et al. (See col. 6, lines 18-20).

In col. 5, lines 61-66 and col. 6, lines 10-59, Barch et al. teach a coating for fibrous substrate, said coating prepared from a composition comprising an film forming binder, such as a polyurethane.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made, to incorporate a binder into the fiber coatings of Arroyo et al. or Geursen et al. in order to obtain the advantages taught by Barch et al., motivated by a reasonable expectation of success.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Kelechi C. Egwim whose telephone number is (703) 306-5701. The examiner can normally be reached on M-T (7:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (703) 308-2450. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

KELECHI C. EGWIM PH.D.
PRIMARY EXAMINER

KCE